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24 August 1972

Mr. Roger Wilkins  
Editorial Department  
The Washington Post  
1515 L Street, N. W.  
Washington, D. C. 20005

Dear Roger:

I noted your article on the editorial page of the August 24th issue of The Washington Post entitled "The CIA Mounts an Operation on a Book." A somewhat similar line had been taken in a letter to the village Voice in New York by Nat Hentoff. This was responded to by a letter from Mr. B. Brooks Thomas, Vice President and General Counsel of Harper & Row, and published in the Voice on August 17, 1972. I enclose a copy of Mr. Thomas' letter as I think it is as pertinent to your views as it is to those of Nat Hentoff.

Sincerely,

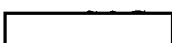


Lawrence R. Houston  
General Counsel

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Enclosure

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24 August 1972

## Spooking the First Amendment

# The CIA Mounts an Operation on a Book

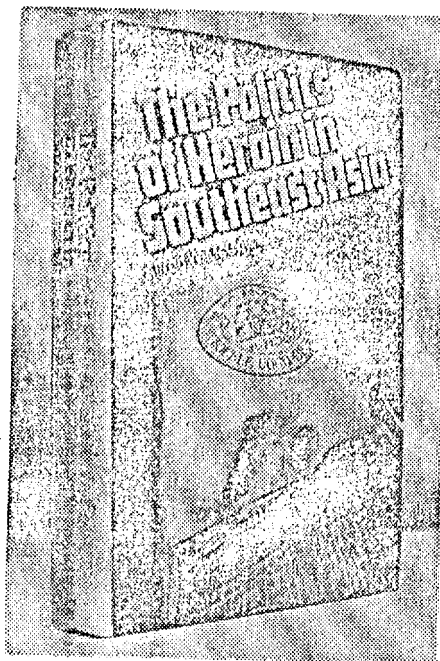
By Roger Wilkins

A FUNNY thing happened to author Alfred W. McCoy on the way to his publication date. He and his publisher, Harper & Row almost got spooked by the CIA in a gambit that does little credit to our secret overseas operatives. It seems that in his book, "The Politics of Heroin in Southeast Asia," Mr. McCoy argues that American diplomats and secret agents have been significantly involved in the narcotics traffic in the "golden triangle" of Laos, Thailand and Burma. The CIA, upon learning something of the content of the book, apparently decided that it had cause for the expression of some concern. As a result, the author alleges, the agency resorted to "extralegal measures" such as CIA visits to the publisher, telephone calls and letters in an attempt "to harass and intimidate me and my publisher."

I am not concerned with the accuracy of Mr. McCoy's text, or his methods of scholarship. I do, however, wonder about the way in which the government expressed its interest in his work. Whether there were visits to the publisher or phone calls, as Mr. McCoy alleges, is not the point. It is clear that the general counsel of the CIA wrote and asked to see the book prior to publication. While he denied that the agency's interest affected in any way the publisher's right to publish, the general counsel went on to apply some heavy pressure, saying "it is our belief that no reputable publishing house would wish to publish such allegations without being assured that the supporting evidence was valid."

HARPER & ROW, for its part, told the agency that it desired to publish the book but also to "live up to the traditions and responsibilities of a great publishing house as we see them." Overriding the author's protests, the publisher decided to submit the book for an unusual pre-publication review by the CIA. A source at Harper & Row reports that the agency wrote the firm saying that it could "prove beyond doubt" that

McCoy's facts were wrong. After reviewing the book, the agency attempted, in an 11-page critique, to demonstrate that the author's evidence did not support his assertions. Apparently, after reviewing the CIA critique, Harper & Row decided the agency



had not proved its case. "They just didn't do it," the source reports. So, the book will see the light of day.

Unfortunately, this is neither the government's nor the CIA's first venture into the murky business of attempting to impose pre-publication restraints on the words and ideas the citizens of this country are to read and consider. The Justice Department's thrust against the Pentagon Papers is still fresh in memory. And the CIA has a rich

history in this business. In recent years, the agency has flitted from Random House to Putnam to courtrooms and to Harper & Row trying to influence what the rest of us do or don't read about the CIA.

But the agency cannot have it both ways. It cannot hide away in the woods when it pleases and then tell the mirrors of the world what to show when it becomes edgy. Its message to Harper & Row was especially pernicious. While disclaiming any intention to inhibit publication, the agency suggested more than once that no reputable or responsible publisher would want to publish a book without first validating the facts. And then the agency offered itself as chief validator. I am not sure whether the publisher needed to go as far as submitting the galley proofs of the book to the CIA for pre-publication review in order to ascertain the agency's views or whether, indeed, that decision was entirely wise. But to its credit, Harper & Row resisted the pressures and retained the ultimate publishing judgment.

THAT IS all to the good, for the CIA, in offering its services as ultimate validator of the author's source material, was dangling a lure that leads down the path to acquiescence in censorship. If Clifford Irving's caper taught us anything, it was that the publisher has ultimate responsibility for checking the validity of the material he proposes to publish. It is clear that the publisher, upon learning that serious questions have been raised about the reliability of material it has on hand, should at least talk the questions over with any responsible doubter.

But finally, the responsibility rests with the publisher, it cannot and should not be shifted to any other party, particularly not to a secret agency of the government. Any other course would lead to the erosion of a publisher's most precious right, the first amendment right of free speech, which is his only guarantee of his ability to promote the free flow of information and ideas throughout society, and our only guarantee as well.

## Victory over the CIA

Dear Sir:

Although one has the feeling that to respond to Nat Hentoff's recent column about Harper & Row allowing the CIA to see a book prior to publication (*Voice*, August 10) is only to encourage him to even more dubious efforts, the enormity of his assertions and their potential impact on the author community compel me to put Harper's side on the record at least once.

Stripped of its rhetoric, Hentoff's article boils down to the assertions that Harper & Row "surrendered" to "pressure" from the CIA by giving it the opportunity to see the book prior to publication (which Hentoff says is the same as giving them the power to revise it), and that the publisher unfairly persuaded the author into going along with its point of view despite his own feelings to the contrary.

Hentoff's claim that what is involved here is prior restraint is a classic exercise in bootstrap logic. Although he admits that the CIA's request (which he has apparently not seen, although everyone else has, and which is not, as he says, "confidential") is only for permission to review the book, he nevertheless asserts that "what the CIA is after, the wording of the letter makes clear, is permission to revise." Later in his article he escalates this to "an attempt at prior restraint (review)."

Since the real nature of the CIA's request (demand) is central to the issue, I will quote from it: "In the light of the pernicious nature of the drug traffic, allegations concerning involvement of the U. S. government therein or the participation of American citizens should be made only if based on hard evidence. It is our belief that no reputable publishing house would wish to publish such allegations without being assured that the supporting evidence was valid . . . we believe that we could demonstrate to you that a considerable number of Mr. McCoy's claims about this agency's alleged involvement are totally false and without foundation, a number are dis-

torted beyond recognition, and none is based on convincing evidence."

Clearly what is involved here is not a threat but a request, not an attempt to revise but an offer to prove matters which, if they could be proven, might well lead both publisher and author to make changes of their own free will. To refuse even to entertain such an offer seems to us egoistic and irresponsible. We do not want to play God with men's lives, or even with their reputations. Although we have great confidence in the author and in the book, we do not find it utterly inconceivable that someone else may know something we don't. This is simply a matter of intellectual honesty; to convert it into some form of political surrender is an exercise in knee-jerk paranoia.

As everyone knows by now, the CIA did submit their comments, which we and the author carefully considered and rejected as wholly unpersuasive. The book is being published this week without a word changed. And yet Hentoff bristles at calling this a victory. We gave away, he says, a full adversary proceeding in a court of law which would have protected the author's rights and the public's as well. Yet it was just such a proceeding that we sought to avoid or, failing that, win, by making the book available voluntarily.

We are in the business of publishing books, not litigating with the CIA. Whatever it may do for the ego, such litigation is enormously expensive for both author and publisher, and it can tie up publication for months and even years. The CIA could commence an action whether we let them see the book or not, and the moment the issue was joined the Court could, and probably would, have let them see the book anyway. One of the reasons for volunteering the book was in the hope of avoiding such expense and delay by convincing the CIA that they had no case for court action. Another was to put us in the strongest possible position should the CIA go to court anyway, in which

them to the limit. It seems rather ungenerous to fault this strategy for having paid off, as it appears to have done.

But, says Hentoff, there is the "chilling effect" to consider. Just what got chilled in this case? What difference did it make that the CIA saw the book three weeks earlier than it otherwise would have? This is not a series of newspaper exposes where future sources might dry up. And the CIA can intimidate past sources just as well after publication as before, even assuming they need our copy of the manuscript to do it.

I am not saying there is no such thing as a "chilling effect." I am only saying that its importance must be judged on the circumstances of each individual case, and weighed in the balance against the danger of pursuing the opposite course. In this case I believe the danger of "chill" was much less than the danger of publishing serious allegations which might turn out to be unsupportable. I believe that the action of the Freedom to Read Committee, which Hentoff criticizes, was based on a recognition of the delicacy of this balance. Hentoff's simplistic analysis does not, of course, even admit the existence of the problem.

Finally, Hentoff scores Harper & Row for having successfully persuaded the author to go along with its point of view. It does not take much reading between the lines to perceive that what he really resents is the notion that a publisher should have a point of view on such a matter. Yet a publishing house is not a public utility like the telephone company, required by law to transmit messages for anyone who can pay the fare.

Many people associate the credibility of a work with the reputation of the publisher as well as with that of the author, and most are quick to hold the publisher to account when things go wrong. The Clifford Irving debacle is only one of several recent reminders of this fact of life. Surely the author has no more right to force the publisher to publish against his scruples than the publisher has to force the author to write against his.

In this case, the author had other equally attractive publishing options which did not involve showing the manuscript to the CIA. The fact that he chose to go along with us rather than publish elsewhere only reflects the fact that our commitment to the book was clearly more important to him than our difference of opinion about showing it to the CIA.

—B. Brooks Thomas  
Vice President &  
General Counsel  
Harper & Row  
East 53rd Street

Nat Hentoff will reply in next week's issue.